

**UTILITY
PATENT APPLICATION
TRANSMITTAL**

(only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	P686 CON2 (1737.1540002/TUM/JKM)
First Inventor	Eric P. BERG
Title	Medical Device for Delivering a Therapeutic Substance and Method Therefor
Express Mail Label No.	

APPLICATION ELEMENTS
See MPEP chapter 600 concerning utility patent application contents.**ADDRESS TO:** Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original, and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification [Total Pages 20]
(preferred arrangement set forth below)
- Descriptive title of the Invention
- Cross Reference to Related Applications
- Statement Regarding Fed sponsored R & D
- Reference to sequence listing, a table,
or a computer program listing appendix
- Background of the Invention
- Brief Summary of the Invention
- Brief Description of the Drawings (if filed)
- Detailed Description
- Claim(s)
- Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets 4]
5. Oath or Declaration [Total Pages 2]
a. ☐ Newly executed (original or copy)
b. ☒ Copy from a prior application (37 CFR 1.63(d))
(for continuation/divisional with Box 18 completed)
i. ☐ **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s)
named in the prior application, see 37 CFR
1.63(d)(2) and 1.33(b).
6. ☒ Application Data Sheet. See 37 CFR 1.76.
7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program
(Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission
(if applicable, all necessary)
a. ☐ Computer Readable Form (CRF)
b. Specification Sequence Listing on:
i. ☐ CD-ROM or CD-R (2 copies); or
ii. ☐ paper
c. ☐ Statements verifying identity of above copies
9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement (when there is an assignee) ☐ Power of Attorney
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☐ Preliminary Amendment
14. ☒ Two (2) Return Receipt Postcards (MPEP 503)
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)
(if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach
form PTO/SB/35 or its equivalent.
17. ☒ Other: Authorization under 37 C.F.R. § 1.136(a)(3)
18. ☒ Other: The name of the Assignee is: Medtronic Vascular, Inc.

22581 U.S. PTO
10/727534
120503**ACCOMPANYING APPLICATION PARTS**

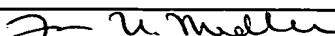
18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☒ Continuation ☐ Divisional ☐ Continuation-in-Part (CIP) of prior application No: 09/769,423
Prior application information: Examiner Jeremy Thissell Art Unit: 3763

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS☒ Customer Number **28390**or ☐ Correspondence address below

NAME	MEDTRONIC VASCULAR, INC.				
	Legal Department				
ADDRESS	3576 Unocal Place				
CITY	Santa Rosa	STATE	CA	ZIP CODE	95403
COUNTRY	U.S.A.	TELEPHONE	(707) 543-0221	FAX	(707) 543-5420

NAME (Print/Type)	Teresa U. Medler	Registration No. (Attorney/Agent)	44,933
SIGNATURE		Date	December 5, 2003

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you are required to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

BERG *et al.*

Appl. No. *To Be Assigned (Rule 53(b)*
Continuation of U.S. Application No.
09/769,423)

Filed: *Herewith (December 5, 2003)*

For: **Medical Device for Delivering a
Therapeutic Substance and
Method Therefor**

Confirmation No. *To Be Assigned*

Art Unit: *To Be Assigned*

Examiner: *To Be Assigned*

Atty. Docket: P686 CON2
(1737.1540002/TUM/JKM)

**Authorization To Treat A Reply As Incorporating An Extension Of
Time Under 37 C.F.R. § 1.136(a)(3)**

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

The U.S. Patent and Trademark Office is hereby authorized to treat any concurrent or future reply that requires a petition for an extension of time under this paragraph for its timely submission, as incorporating a petition for extension of time for the appropriate length of time. The U.S. Patent and Trademark Office is hereby authorized to charge all required extension of time fees to our Deposit Account No. 19-0036, if such fees are not otherwise provided for in such reply.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Teresa U. Medler
Attorney for Applicants
Registration No. 44,933

Date: December 5, 2003

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*Practice Limited to
Federal Agencies

December 5, 2003

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mail Stop Patent Application

Re: U.S. Continuation Utility Patent Application under 37 C.F.R. § 1.53(b)
Appl. No. *To Be Assigned*; Filed: *Herewith (December 5, 2003)*
(*Rule 53(b) Continuation of U.S. Application No. 09/769,423*)
For: **Medical Device for Delivering a Therapeutic Substance
and Method Therefor**
Inventors: BERG *et al.*
Our Ref: P686 CON2 (1737.1540002/TUM/JKM)

Sir:

The following documents are forwarded herewith for appropriate action by the U.S. Patent and Trademark Office:

1. PTO Fee Transmittal (Form PTO/SB/17);
2. PTO Utility Patent Application Transmittal (Form PTO/SB/05);
3. Authorization to Treat a Reply As Incorporating An Extension of Time Under 37 C.F.R. § 1.136(a)(3);
4. PTO-2038 Credit Card Payment Form;
5. Rule 53(b) Continuation U.S. Utility Patent Application entitled:

Medical Device for Delivering a Therapeutic Substance and Method Therefor
and naming as inventors:

Commissioner for Patents
December 5, 2003
Page 2

Eric P. BERG
Thomas Q. DINH

the application consisting of:


- a. Application Data Sheet;
 - b. A copy of the Declaration executed by Eric P. BERG and Thomas Q. DINH on June 17, 1997 (2 pages) as filed in the parent Application No. 09/769,423, and as originally filed in 35 U.S.C. § 120 priority U.S. Appl. No. 08/877,532;
 - c. A specification containing 20 total pages:
 - i. 13 pages of description prior to the claims;
 - ii. 6 pages of claims (39 claims); and
 - iii. a one (1) page abstract; and
 - d. 4 sheets of formal drawings (Figures 1, 2, 3, 4, 5a, and 5b); and
6. Two (2) return postcards.

It is respectfully requested that, of the two attached postcards, one be stamped with the filing date of these documents and returned to our courier, and the other, prepaid postcard, be stamped with the filing date and unofficial application number and returned as soon as possible.

The U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.


Teresa U. Medler
Attorney for Applicants
Registration No. 44,933

TUM/JKM/acr
Enclosures

SKGF_DC1:206454.1

**FEE TRANSMITTAL
for FY 2004**

Effective 10/01/2003. Patent fees are subject to annual revision.

C Complete if Known

Application Number	To Be Assigned (Rule 53(b) Continuation of U.S. Application No. 09/769,423)
Filing Date	Herewith (December 5, 2003)
First Named Inventor	Eric P. BERG
Examiner Name	To Be Assigned
Art Unit	To Be Assigned
Attorney Docket No.	P686 CON2 (1737.1540002/TUM/JKM)

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT (\$1,112.00)****METHOD OF PAYMENT (check all that apply)**☐ Check ☒ Credit card ☐ Money Order ☒ Other** ☐ None

** Charge any deficiencies or credit any overpayments in the fees or fee calculations of Parts 1, 2 and 3 below to Deposit Account No. 19-0036.

☐ Deposit Account

Deposit Account Number 19-0036

Deposit Account Name: Sterne, Kessler, Goldstein & Fox P.L.L.C.

The Commissioner is authorized to: (check all that apply)☐ Charge fee(s) indicated below ☐ Credit any over payments☐ Charge any additional fee(s) during the pendency of this application☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1001	770	2001	385	Utility filing fee	770.00
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1105	160	2005	80	Provisional filing fee	

SUBTOTAL (1) (\$) 770.00**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

	Extra	Fee from below	Fee Paid
Total Claims 39 - 20** = 19	X	18	= 342.00
Indep. Claims 2 - 3** = 0	X	86	= 0.00
Multiple Dependent			= 0.00

Large Entity Fee Code	Small Entity Fee Code	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	**Reissue independent claims over original patent
1205 18	2205 9	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$) 342.00

**or number previously paid, if greater; For Reissue, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

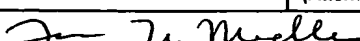
Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1502	50	2052	25	Surcharge-late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIF prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIF after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) _____

* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 0.00**SUBMITTED BY**

Complete (if applicable)

Name (Print/Type)	Teresa U. Medler	Registration No. (Attorney/Agent)	44,933	Telephone	202-371-2600
Signature		Date	December 5, 2003		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

SKGF_DC1:206499.1